

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

JESSE COGILL,

Plaintiff,

V.

ROBERT HOUSTON, et al.,

Defendants.

8:09CV209

# MEMORANDUM AND ORDER

This matter is before the court on two Motions to Stay Discovery filed by Defendants. (Filing Nos. [38](#) and [40](#).) In these Motions, Defendants ask the court to stay discovery in this matter until the court has issued a progression order. (Filing No. [38](#) at CM/ECF p. 1; Filing No. [40](#) at CM/ECF p. 1.)

Under [NECivR 16.1\(c\)\(2\)](#), no discovery shall take place in a pro se case, “except upon motion and order,” until the court enters a progression order. [NECivR 16.1\(c\)\(2\)](#). In this case, Plaintiff has filed a Motion for Leave to Request Interrogatories (filing no. [32](#)) and a Motion for Leave to Request Production of Documents (filing no. [33](#)). Because the court has not yet entered a progression order in this matter, Plaintiff’s discovery requests are premature. In addition, the court declines to permit discovery at this stage of the proceedings. Thus, Defendants’ Motions to Stay Discovery are granted and Plaintiff’s requests for discovery are denied. Plaintiff may reassert his discovery requests after the court enters a progression order in this matter.

Separately, Plaintiff has filed a Motion to Dismiss Defendants Robert Houston (“Houston”) and Fred Britten (“Britten”) from this matter. (Filing No. [35](#).) In his Motion, Plaintiff states that Houston and Britten did not participate in the events

relating to his claims. ([\*Id.\*](#) at CM/ECF p. 1.) Plaintiff's Motion to voluntarily dismiss Houston and Britten is therefore granted.

IT IS THEREFORE ORDERED that:

1. Defendants' Motions to Stay Discovery (filing nos. [38](#) and [40](#)) are granted.
2. Plaintiff's Motion for Leave to Request Interrogatories (filing no. [32](#)) and Motion for Leave to Request Production of Documents (filing no. [33](#)), are denied without prejudice to reassertion.
3. Plaintiff's Motion to Dismiss Houston and Britten (filing no. [35](#)) is granted.

DATED this 26<sup>th</sup> day of February, 2010.

BY THE COURT:

s/ Joseph F. Bataillon  
Chief United States District Judge

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